HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:19459 OF 2007

Dated:06.12.2007

Between:

Sri Surya Complex,
A regd. Firm represented by its
Managing Partner, D.S.R.K. Prasad,
Kakinada, East Godavari District.

..Petitioner

And

The Commissioner, Kakinada
Municipal Corporation,
Kakinada, East Godavari District.

..Respondent.

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ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the action of the respondent in not taking steps or any action pursuant to the representation dated 9.4.2007 showing payment of tax by way of Demand Drafts/Cheques from the latter half of 1993-94 onwards till March, 2007 in compliance with the orders of this Court dated 3.3.2004 in W.P.No.16518 of 1997 and WPMP No.23883 of 2004, dated 11.10.2004 in W.P.No.18183 of 2004 and to direct the respondent to reduce the tax proportionately for the ground floor portion of the premises being used for staff vehicle parking after dismantling of all the shops in January, 2004.

The main grievance of the petitioner is that as on today, the entire arrears till the latter half of 2001-2002 had been paid and the petitioner has been paying tax at the rate of Rs.60,000/- per half year and there are no arrears payable by the petitioner towards the property, but the respondent has been demanding several lakhs of rupees to be payable towards tax by the petitioner. The petitioner also made a representation on 9.4.2007 about the payments made and seeking reduction of the tax for the shops dismantled, but there was no response from the respondent. Hence, the present writ petition is filed by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Government Pleader for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that no arrears are payable by the petitioner towards the property tax and as per the orders of this Court in another writ petition, the petitioner has been paying the tax and that the petitioner has also made representation bringing to the notice of the authorities as to the payments made towards the property tax and seeking reduction of the tax for the dismantled shops.

On the other hand, the learned Government Pleader contended that as and when the demand notices are issued, the petitioner is approaching this Court and obtaining the interim directions and in the instant case also, the petitioner obtained interim stay and under the guise of the same, he is evading the payment of the total tax and the said act of the petitioner would cause loss to the State exchequer and therefore, the writ petition is liable to be dismissed.

In reply, the learned Counsel for the petitioner submitted that he never sought for any stay.

On a perusal of the record, it is apparent that on 13.9.2007, this Court while ordering notice before admission, granted interim stay and the petitioner enjoyed the benefit of stay for a period of four months and now, it is stated that no stay has been sought for in the instant Case. In view of the above submission, the interim stay granted by this Court is vacated.

In view of the above controversy as to the payment of the

property tax and in the facts and circumstances of the case and in view of the pendency of the representation before the authorites for consideration, without expressing any opinion on the merits of the case, We feel it appropriate to dispose of the writ petition with a direction to the respondent to consider the representation made by the petitioner and pass appropriate orders on condition of the petitioner depositing an amount of Rs.5,00,000/- (Rupees Five Lakhs only) within a period of four weeks from today. In default, the respondent is at liberty to proceed further in accordance with law. It is made clear that the representation of the petitioner shall be considered and disposed of within a period of two months from the date of such deposit. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 6th December, 2007
Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:19459 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

06/12/2007